

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3355 of 2000
and
CIVIL APPLICATION NO. 11453 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

and

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?

 2. To be referred to the Reporter or not? : NO

 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

 5. Whether it is to be circulated to the Civil Judge? : NO
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UNITED INDIA INSURANCE CO LTD.

Versus

VASAN VERA DUNGARIA,F/O LATE RAMESH VASAN DUNGARIA

Appearance:

MR PV NANAVATI for appellant/applicant.

MR MEHUL S SHAH for Respondent Nos.1 to 3 as Caveator

CORAM : MR.JUSTICE M.R.CALLA

and

MR.JUSTICE D.A.MEHTA

Date of decision: 13/12/2000

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Mr. Nanavati for the appellant/applicant seeks to

delete the respondents nos.4 and 5 from the array of the respondents. Permission is granted. Respondents nos.4 and 5 stand deleted accordingly.

Admit. Issue notice. Mr.Mehul Shah accepts notice and waives the service on behalf of respondents nos.1 to 3.

2. This appeal under the Motor Vehicles Act is directed against the judgment and order dated 22nd August 2000 passed by the Motor Accident Claims Tribunal (Main), Kachchh at Bhuj in M.A.C.Petition No.631/97 passed under Sec.163A of the Motor Vehicles Act. The petition under Sec.166 is pending. Both the sides agree that this appeal may be decided on the following terms:

(i) The respondents-original claimants shall file an undertaking before the Tribunal within four weeks stating that they would pursue the main claim petition and obtain a judgment and award on merits and that they shall not permit the claim petition to be dismissed for default nor it would withdraw the same.

(ii) The amount of Rs.25,000/- deposited before this Court shall be transmitted to the concerned Tribunal before 31st Dec.2000. The appellant shall deposit the rest of the amount under the award as above on or before 31.12.2000, and

(iii) on such deposit being made, the claimants shall be entitled to withdraw 35% of the total amount as per the apportionment order passed by the Tribunal subject to the conditions mentioned in the award itself and the balance of 65% shall be invested by the Tribunal in Fixed Deposit with any Scheduled Bank initially for a period of three years and on maturity, it shall be renewed at the end of every year at a time without any further orders in this regard by this Court till the main claim petition under Sec.166 is decided. The original claimants herein shall also be entitled to withdraw the interest periodically on such Fixed Deposit.

(iv) It shall also be open for both the sides to raise all factual as well as legal submissions before the Tribunal as and when the main claim petition is heard by the concerned Tribunal.

Ordered accordingly. Subject to the terms

aforesaid, this appeal is hereby dismissed. No order as to costs.

Since the main appeal itself has been decided and dismissed, there is no question of any stay in this Civil Application for stay. The Civil Application is accordingly rejected.

(M.R. Calla, J.)

(D.A. Mehta, J.)

Sreeram.